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DEC 24
CHARLES ELMO

IN THE

Supreme Court of the United States

No. [illegible] / 8

WILSON LUMBER COMPANY OF FLORIDA,
Appellant,

vs.

UNITED STATES OF AMERICA,
INTERSTATE COMMERCE COMMISSION, ET AL.,
Appellees.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION.

STATEMENT AS TO JURISDICTION ON APPEAL.

J. V. NORMAN,
Solicitor for Appellant.

December 14, 1929.

WESTERFIELD-BONTE COMPANY, INCORPORATED, LOUISVILLE, KY.

IN THE

Supreme Court of the United States

No. 495.

WILSON LUMBER COMPANY OF FLORIDA,
Appellant,

vs.

UNITED STATES OF AMERICA,
INTERSTATE COMMERCE COMMISSION, ET AL.,
Appellees.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION.

STATEMENT AS TO JURISDICTION ON APPEAL.

A.

STATUTORY PROVISIONS SUSTAINING JURISDICTION.

The statutes relied upon by appellant are:

Section 238 of the Judicial Code as amended by the Act of Congress of February 13, 1925 (c. 229, 43 Stat. 938); and the Urgent Deficiencies Act of October 22, 1913 (c. 32, 38 Stat. 219, 220).

B.

DATE OF DECREE AND DATE OF APPLICATION FOR APPEAL.

The final decree appealed from was dated April 17, 1929, and entered April 22, 1929 (Record, page 1462).* Appellant's notice of appeal was dated June 6, 1929, and was presented on that day (Record, page 1464), and the order granting said appeal was dated June 6, 1929, and was filed June 19, 1929 (Record, page 1471). Proof of service of notice of said appeal to the Attorney General of the State of Georgia was filed June 20, 1929 (Record, page 234). Proof of service of notice of said appeal to the Georgia Public Service Commission and the Atlantic Coast Line Railroad Company was filed June 20, 1929 (Record, page 1473). Proof of service of notice of said appeal to the United States and the Interstate Commerce Commission was filed June 20, 1929 (Record, page 1485).

C.

NATURE OF THE CASE AND RULINGS BELOW.

The suit was brought (Record, page 1360) to enjoin, set aside and annul so much of an order of the Interstate Commerce Commission (Record, page 1381),

*All references to the record are to the pages of the certified unprinted record prepared by the Clerk of the District Court of the United States for the Northern District of Georgia, Atlanta Division, and on file with the Clerk of this Court. The record has not been printed.

dated and entered August 1, 1928 (and subsequently amended and clarified by orders of the Interstate Commerce Commission dated February 5 and February 7, 1929, Record, page 1456), in a proceeding before the Interstate Commerce Commission, entitled Docket No. 18364, *Georgia Public Service Commission,* Complainant, v. *Atlantic Coast Line Railroad Company,* Defendant, reported in 146 I. C. C. 717 (Record, page 1370), as required the Atlantic Coast Line Railroad Company to establish and put in force in intrastate commerce, within and throughout the entire State of Florida without exception, certain rates on logs which were, in the same order, fixed as reasonable, between certain points in northern Florida (only) and points in Georgia in interstate commerce.

Circuit Judge Walker and District Judges Dawkins and Sibley, who sat in the specially constituted District Court, concurred in a unanimous opinion filed January 17, 1929 (State of Florida v. U. S., 30 Fed. (2) 116, Record, page 1407), and afterwards said District Court, so constituted, by its order granted a rehearing and allowed the appellant to file a Supplemental Bill (Record, page 1436), and afterwards, upon said rehearing, the said Judges comprising said District Court concurred in a unanimous opinion filed on March 22, 1929 (*Id.* 31 Fed. (2) 580; Record, page 1458), and on April 22, 1929, entered the Final Decree, dated April 17, 1929, by which said Court, for the reasons stated in said last described opinion, denied the

relief sought and dismissed the Bill and Supplemental Bill (Record, page 1462).

D.

CASES BELIEVED TO SUSTAIN JURISDICTION.

The following decisions of this Court are believed to sustain jurisdiction of this appeal:

Baltimore & Ohio R. R. Co. v. U. S., 277 U. S. 291;
Id. 279 U. S. 781;
St. L. & O'Fallon R. R. v. U. S. and I. C. C., 279 U. S. 461.

We respectfully submit that this Court has jurisdiction of this appeal by virtue of the statutory provisions hereinabove set forth.

Respectfully submitted,

J. V. NORMAN,
Solicitor for Appellant.
Inter-Southern Building,
Louisville, Ky.

Dated December 14, 1929.

Service of copy of the foregoing statement as to Jurisdiction on Appeal is hereby acknowledged this ——— day of December, A. D., 1929.

For United States of America, Appellee.

Solicitor for Interstate Commerce Commission, Intervening Appellee.

Solicitor for Atlantic Coast Line Railroad, Intervening Appellee.

Solicitor for Georgia Public Service Commission, Intervening Appellee.